National Estuary Program

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In the United States, the **National Estuary Program** was created by the 1987 amendments (P.L. 100-4) to the Clean Water Act (P.L. 92-500, as amended) to provide grants to states where governors identify nationally significant estuaries that are threatened by pollution, land development, or overuse. Governors have identified a total of 28 estuaries, and the Environmental Protection Agency awarded grants to these states to develop comprehensive management plans to restore and protect the estuaries.

The National Estuary Program is made up of 28 smaller organizations set up regionally by estuary. Each of the 28 organizations is headed by the community. It is the job of the National Estuary Program to help communities better protect, restore and maintain their estuaries. Unlike traditional environmental governance approaches, the National Estuary Program targets a broader range of issues and participates more effectively in local communities. Before the National Estuary Program, there was only a mishmash of small grassroots organizations that had limited effect. The programs now focus not just on improving water quality in an estuary, but on maintaining the integrity of the system as a whole. If all parts of the estuary are not addressed it will be unable to balance the changes and may ecologically collapse, doing more harm than good. That includes chemical, physical, and biological properties, as well as its economic, recreational, and aesthetic public values. This allows communities that live in watersheds to have local as well as national protection.[1] [2]

See also

- Maryland Coastal Bays Program, one of the 28 organizations
- Partnership for the Delaware Estuary, one of the 28 organizations
- San Francisco Estuary Partnership, one of the 28 organizations
- San Juan Bay National Estuary Program, one of the 28 organizations

References

1. ^ US EPA. 2011. "How does the National Estuary Program help?" 29 September. Accessed 3 December 2011 <http://water.epa.gov/learn/kids/estuaries/nep.cfm>.
2. ^ US EPA. 2011. "Estuaries and Coastal Watersheds." 29 September. Accessed 2 December 2011 <http://water.epa.gov/type/oceb/nep/>.

Categories: United States Environmental Protection Agency

Coastal Zone Management Act

From Wikipedia, the free encyclopedia

Coastal Zone Management Act

Other short title(s)	Marine Resources and Engineering Development Act of 1966 Amendment
Long title	An Act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.
Colloquial acronym(s)	CZMA
Nickname(s)	Coastal Zone Management Act of 1972
Enacted by the	92nd United States Congress
Effective	October 27, 1972
	Citations
Public Law	92-583 (http://www.gpo.gov/fdsys/pkg/STATUTE-86/pdf/STATUTE-86-Pg1280.pdf)
Stat.	86 Stat. 1280 (http://www.gpo.gov/fdsys/granule/STATUTE-86/STATUTE-86-Pg1280/content-detail.html)
	Codification
Title(s) amended	16 U.S.C.:Conservation
U.S.C. sections created	16 U.S.C. ch. 33 (http://www.law.cornell.edu/uscode/text/16/chapter-33) § 1451 et seq.
	Legislative history

- **Introduced in the Senate as** S. 3507

The Coastal Zone Management Act of 1972 (CZMA; Pub.L. 92–583

- **Signed into law by President** Richard Nixon **on** October 27, 1972

Major amendments

Pub. L. No. 109-58, the Energy Policy Act of 2005

(http://www.law.cornell.edu/jureeka/index.php?doc=USPubLaws&cong=92&no=583), 86 Stat. 1280 (http://www.gpo.gov/fdsys/granule/STATUTE-86/STATUTE-86-Pg1280/content-detail.html), enacted October 27, 1972, 16 U.S.C. §§ 1451 (http://www.law.cornell.edu/uscode/16/1451.html)–1464 (http://www.law.cornell.edu/uscode/16/1464.html), Chapter 33) is an Act of Congress passed in 1972 to encourage coastal states to develop and implement coastal zone management plans (CZMPs). This act was established as a United States National policy to preserve, protect, develop, and where possible, restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations.

Contents

History

The Coastal Zone Management Act (CZMA) of 1972 showed that the United States Congress "recognized the importance of meeting the challenge of continued growth in the coastal zone".[1] Under this act two national programs were created, the National Coastal Zone Management Program (CZMP) and the National Estuarine Research Reserve System. Out of 35 eligible states, only 34 have established management programs; Washington State was the first state to adopt the program in 1976.[2]

The Coastal Zone Management Program (CZMP), also called the National Coastal Zone Management Program, was established under the Coastal Zone Management Act of 1972 and is administered by NOAA's Office of Ocean and Coastal Resource Management (OCRM). This program is designed to set up a basis for protecting, restoring, and establishing a responsibility in preserving and developing the

nation's coastal communities and resources, where they are under the highest pressure. The vision of the CZMP is to ensure that "the nation's coast and oceans, including the Great Lakes and island territories, are healthy and thriving for this and future generation".[3] Their mission is "to ensure the conservation and responsible use of our nation's coastal and ocean resources".[4]

The key goals of the National CZM program include: "protecting natural resources, managing development in high hazard areas, giving development priority to coastal-dependent uses, providing public access for recreation, coordinating state and federal actions".[5] Ultimately the outcomes from the CZMP are for "healthy and productive coastal ecosystems, and to have environmentally, economically, and socially vibrant and resilient coastal communities".[6]

The National Estuarine Research Reserve System is the second programs established by the Coastal Zone Management Act of 1972 and is also administered by the National Oceanic and Atmospheric Administration (NOAA). NERRS is a network of 28 areas within the nation and various coastal states, which spans more than 1 million acres. These areas are used for long-term research, water-quality monitoring, education, and coastal stewardship.[7]

Components

Title 16 Chapter 33- Coastal Zone Management Act

- **16 U.S.C. § 1451. Congressional findings**

Congress found a national interest for the management protection and use of coastal zones. Coastal zones have wealth in different disciplines, and have deep value to the development of the Nation. Many stresses are on the lands of coastal zone, from natural, residential, and industry and there is need to preserve and protect these areas. Some of the ecosystems are threatened by man, if lands aren't preserved and protected all beneficial use can be lost forever. "In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone..."[8] Also, due to potential for global warming these areas need to be prepared for any alterations in water levels.

- **16 U.S.C. § 1452. Congressional declaration of policy**

Congress declares in its national policy "to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations." [9] This is encouraged through the various states and coastal regions that want to actively participate in local, Federal, and State programs. These programs need to be aware of changes affecting the coastal areas and know how to act in response.

- **16 U.S.C. § 1453. Definitions**

A "coastal zone" is defined as the "coastal waters and the adjacent shorelands, as well as includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches." [10]

- **16 U.S.C. § 1454. Management program development grants**

These are awarded to coastal states that have developed a management program which has been approved through the Secretary.[11]

- **16 U.S.C. § 1455. Administrative grants**

Funds will be awarded through the Secretary to coastal states that establish management programs. States must identify clear boundaries for the coastal zone they wish to monitor and preserve, as well as define the lands subject to management. The State will conduct public hearings for the development of the program. The Governor of the State must also review and approve any changes to the program. Also the State has to ensure a method of regulation for local land and water usage within the defined areas.[12]

- **16 U.S.C. § 1455a. Coastal resource improvement program**

The Secretary can award grants to a coastal state to help that state meet such requirement as the preservation or restoration of areas designated under the program or that have coastal resources of national significance. This also means to establish public beaches as well as more public coastal regions and waters. Funding can be used to acquire more lands, and low-cost construction such as fences, parks, and paths.[13]

- **16 U.S.C. § 1455b. Protecting coastal waters**

Programs established, or applying for establishment, must give a general purpose for the land uses of the coastal zone. The state must include the critical coastal areas of the set region, establish management procedures, and technical assistance resources. The state needs to identify how it will be engaging public participation, for a community effort, this includes public hearings and the right for public education. States will demonstrate how they will establish coordination amongst local government bodies, state, and federal, and as how the potential boundary modification of the zone will affect the program.[14]

- **16 U.S.C. § 1456. Coordination and cooperation**

If other Federal agencies are interested in the program, the Secretary is responsible for coordination of their set activities with this body.[15]

- **16 U.S.C. § 1456-1. Authorization of the Coastal and Estuarine Land Conservation Program**

Under the Coastal Zone Management Program and the National Estuarine Reserve System, appropriate cooperation with local agencies, State and other agency will provide the means for protecting these zones. This is to preserve areas that have importance regarding "recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural, undeveloped, or recreational state." [16] The National Ocean Service of the National Oceanic and Atmospheric Administration (NOAA) through the Office of Ocean and Coastal Resource Management will administer the programs

- 16 U.S.C. § 1456a. Coastal Zone Management Fund

- **16 U.S.C. § 1456b. Coastal Zone Enhancement Grants**

Grants will be subject to the limitations of the goals of coastal zone enhancement objectives. This means that the state will aim toward either the protection, restoration or the enhancement of the coastal zone or for the creation of new wetlands. This also includes, protecting and reducing threats to the environment and managing potential hazards; the areas should include public access venues pertaining to aesthetic, historical, or cultural value; and management and prevention of debris.[17]

- **16 U.S.C. § 1456c. Technical assistance**

A network will be established by the Secretary to support the development and implementation of the coastal management program into the State.[18]

- **16 U.S.C. § 1457. Public hearings**

Hearings will be announced 30 days in advance and will provide documentation of studies and data available for public viewing. This is similar to the effect as documentation of data will be available for public viewing as the agency becomes aware of it.[19]

- 16 U.S.C. § 1458. Review of performance
- 16 U.S.C. § 1459. Records and audit
- 16 U.S.C. § 1460. Walter B. Jones Excellence in Coastal Zone Management Awards
- 16 U.S.C. § 1461. National Estuarine Research Reserve System
- 16 U.S.C. § 1462. Coastal Zone Management Reports

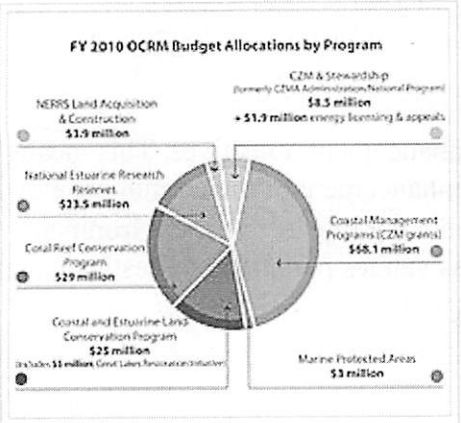
- **16 U.S.C. § 1463. Rules and Regulations**

The Secretary will develop and rules and regulations as may be necessary to carry out the provisions of this chapter, this is subject to influences of local, state, and federal agencies, as to include port authorities and those others interested.[20]

- 16 U.S.C. § 1464. Authorization of appropriations
- 16 U.S.C. § 1465. Appeals to the Secretary

Budget

The Office of Ocean and Coastal Resource Management (OCRM) awards four types of funding to the National CZMP. Combined, the 2011 award totaled over $65 million which supports a "variety of coastal management projects." [21]



FY 2010

Coastal Zone Management Program

The four types of funding relevant to the Coastal Zone Management Programs are:

1. Administrative Grants OCRM provides matching funds to states for CZMP (1:1).

2. Coastal Resource Improvement Program States may spend half of their Section 306 funds on small-scale construction or land acquisition projects, this is geared to improve "public access to the coast, facilitate redevelopment of urban waterfronts, or preserve and restore coastal resources." [22]

3. Coastal Zone Enhancement Grants Per Section 309, OCRM provides zero match funds to state coastal zone management programs, beneficial for enhancement of the states program

4. Coastal Nonpoint Pollution Control Program (Technical Assistance) Congress matches funds to that of the States established program (1:1).

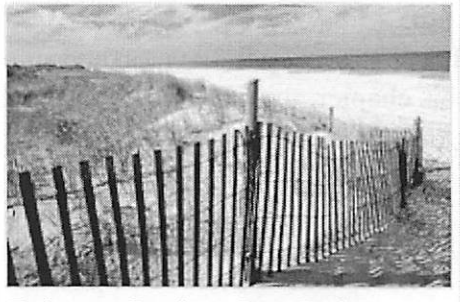
National Estuarine Reserve System

Under Section 315, the OCRM provides funding to the 28 state National Estuarine Research Reserves. Funding is used for support of research, land acquisition matched (1:1), construction, education, monitoring, and graduate research fellowships.

Coastal Zone Management Program

Current Participants

1. Alabama (1979)
2. American Samoa (1980)
3. California (1978)
4. Connecticut (1980)
5. Delaware (1979)
6. Florida (1981)
7. Georgia (1998)
8. Guam (1979)
9. Hawaii (1978)
10. Illinois (2012)
11. Indiana (2002)
12. Louisiana (1980)


Delaware Seashore State Park.

13. Maine (1978)
14. Maryland (1978)
15. Massachusetts(1979)
16. Michigan (1978)
17. Minnesota (1999)
18. Mississippi (1980)
19. New Hampshire (1982)
20. New Jersey (1978)
21. New York (1982)
22. North Carolina (1978)
23. Northern Mariana Islands (1980)
24. Ohio (1997)
25. Oregon (1977)
26. Pennsylvania (1980)
27. Puerto Rico (1978)
28. Rhode Island (1978)
29. South Carolina (1979)
30. Texas (1996)
31. Virgin Islands (1979)
32. Virginia (1986)
33. Washington (1976)
34. Wisconsin (1978)

Former Participant

- Alaska (withdrew July 1, 2011)

National Estuarine Reserve

Current Reserves

1. Apalachicola National Estuarine Research Reserve, Florida - 1979
2. Ashepoo Combahee Edisto Basin National Estuarine Research Reserve, South Carolina - 1992
3. Chesapeake Bay National Estuarine Research Reserve (Maryland), Maryland - 1985

The marshes of Sapelo Island National Estuarine Research Reserve.

4. Chesapeake Bay National Estuarine Research Reserve (Virginia), Virginia - 1991
5. Delaware National Estuarine Research Reserve, Delaware - 1993
6. Elkhorn Slough National Estuarine Research Reserve, California - 1979
7. Grand Bay National Estuarine Research Reserve, Mississippi - 1999
8. Great Bay National Estuarine Research Reserve, New Hampshire - 1989
9. Guana Tolomato Matanzas National Estuarine Research Reserve, Florida - 1999
10. Hudson River National Estuarine Research Reserve, New York - 1982
11. Jacques Cousteau National Estuarine Research Reserve, New Jersey - 1998
12. Jobos Bay National Estuarine Research Reserve, Puerto Rico - 1981
13. Kachemak Bay National Estuarine Research Reserve, Alaska - 1999
14. Lake Superior National Estuarine Research Reserve, Wisconsin - 2011
15. Mission-Aransas National Estuarine Research Reserve, Texas - 2006
16. Narragansett Bay National Estuarine Research Reserve, Rhode Island - 1989
17. North Carolina National Estuarine Research Reserve, North Carolina - 1985
18. North Inlet-Winyah Bay National Estuarine Research Reserve, South Carolina - 1992
19. Old Woman Creek National Estuarine Research Reserve, Ohio - 1980
20. Padilla Bay National Estuarine Research Reserve, Washington - 1980
21. Rookery Bay National Estuarine Research Reserve, Florida - 1978
22. San Francisco Bay National Estuarine Research Reserve, California - 2003
23. Sapelo Island National Estuarine Research Reserve, Georgia - 1976
24. South Slough National Estuarine Research Reserve, Oregon - 1974
25. Tijuana River National Estuarine Research Reserve - California - 1981
26. Waquoit Bay National Estuarine Research Reserve, Massachusetts - 1988
27. Weeks Bay National Estuarine Research Reserve, Alabama - 1986
28. Wells National Estuarine Research Reserve, Maine - 1984

See also

- Coastal States Organization
- National Estuarine Research Reserve

- Integrated Coastal Zone Management
- Coastal Zone Management Program

External links

- Fish and Wildlife Service site (http://laws.fws.gov/lawsdigest/coaszon.html) on the Coastal Zone Management Act
- NOAA Site (http://www.ocrm.nos.noaa.gov/czm/czm_act.html) on the Coastal Zone Management Act

References

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4. ^ http://coastalmanagement.noaa.gov/success/media/CZM_stratplan_final_FY07.pdf
5. ^ http://coastalmanagement.noaa.gov/czm/czm_act.html
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20. ^ http://www.law.cornell.edu/uscode/text/16/chapter-33I
21. ^ http://coastalmanagement.noaa.gov/funding/welcome.html
22. ^ http://coastalmanagement.noaa.gov/funding/welcome.html

Categories: 1972 in law | United States federal environmental legislation | 1972 in the environment

Migratory Bird Treaty Act of 1918

From Wikipedia, the free encyclopedia

Bird law redirects here. For the magazine see Bird-Lore (in 1966 it was renamed "Audubon".)

The **Migratory Bird Treaty Act of 1918 (MBTA)**, codified at 16 U.S.C. §§ 703 (http://www.law.cornell.edu/uscode/16/703.html)–712 (http://www.law.cornell.edu/uscode/16/712.html) (although §709 is omitted), is a United States federal law, first enacted in 1916 in order to implement the convention for the protection of migratory birds between the United States and Great Britain (acting on behalf of Canada[1]). The statute makes it unlawful without a waiver to pursue, hunt, take, capture, kill or sell birds listed therein ("migratory birds"). The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs and nests. Over 800 species are currently on the list [1] (http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html).

Some exceptions to the act, known as the eagle feather law, are enacted in federal regulations (50 C.F.R. 22 (http://www.law.cornell.edu/cfr/text/50/22)), which regulates the taking, possession, and transportation of bald eagles, golden eagles, and their "parts, nests, and eggs" for "scientific, educational, and depredation control purposes; for the religious purposes of American Indian tribes; and to protect other interests in a particular locality." Enrolled members of federally recognized tribes may apply for an eagle permit for use in "bona fide tribal religious ceremonies."[2]

The U.S. Fish and Wildlife Service issues permits for otherwise prohibited activities under the act. These include permits for taxidermy, falconry, propagation, scientific and educational use, and depredation, an example of the latter being the killing of geese near an airport, where they pose a danger to aircraft.

The Act was enacted in an era when many bird species were threatened by the commercial trade in birds and bird feathers. The Act was one of the first federal environmental laws (the Lacey Act had been enacted in 1900). The Act replaced the earlier Weeks-McLean Act (1913). Since 1918, similar conventions between the United States and four other nations have been made and incorporated into the MBTA: Mexico (1936), Japan (1972) and the Soviet Union (1976, now its successor state Russia). Some of these conventions stipulate protections not only for the birds themselves, but also for habitats and environs necessary for the birds' survival.

Constitutionally this law is of interest as it is a use of the federal treaty making power to override the provisions of state law. The principle that the federal government may do this was upheld in the case *Missouri v. Holland.*

Contents

Sections

- § 703: Taking, killing, or possessing migratory birds unlawfully
- § 704: Determination as to when and how migratory birds may be taken, killed, or possessed
- § 705: Transportation or importation of migratory birds; when unlawful
- § 706: Arrests; search warrants
- § 707: Violations and penalties; forfeitures
- § 708: State or Territorial laws or regulations
- § 709: Omitted
- §709a: Authorization of appropriations
- § 710: Partial invalidity; short title
- § 711: Breeding and sale for food supply
- § 712: Treaty and convention implementing regulations; seasonal taking of migratory birds for essential needs of indigenous Alaskans to preserve and maintain stocks of the birds; protection and conservation of the birds

History

Louis Marshall had a key influence as an intervenor on a landmark case before the Supreme Court underscoring the right and responsibility of the Federal government for environmental protection and conservation. In a friend of the court brief in *Missouri v. Holland* on behalf of the Association for the Protection of the Adirondacks, Marshall successfully persuaded the Court to uphold the Migratory Bird Treaty Act of 1918, between the United States and Canada.[3] As characterized by Adler, Marshall argued that "the United States did have the power to create such legislation; that Congress was well within its rights; and that the Act was constitutional"; and, further, "If Congress possessed plenary powers to legislate for the protection of the public domain, then it had to take into account all possibility for such protection", including protection of migratory birds, "these natural guardians" against "hostile insects, which, if not held in check ... would result in the inevitable destruction" of "both prairie and forest lands". According to Handlin, Marshall's intervention "was a major factor in the decision."[4]

Recent revisions

In the 24 August 2006 edition of the Federal Register, the U.S. Department of the Interior's Fish and Wildlife Service proposed adding 152 species, removing 12 species, and correcting/updating the common or scientific names of numerous others. [2] (http://www.fws.gov/migratorybirds/fedreg/regs07/Part%2010%20list%20-%20proposed.pdf) Reasons for the proposed revisions include birds mistakenly omitted previously, new evidence on geographic distribution, taxonomic changes, etc. In addition the mute swan (Cygnus olor), which was afforded temporary protection due to court order since 2001, is formally excluded from protection in the proposal due to "nonnative and human introduced" status. The previous update to the list occurred on 5 April 1985.

On January 9, 2001, the US Supreme Court, in a split vote of 5 to 4, (Solid Waste Agency, of Skokie, Illinois vs US Army Corps of Engineers) threw out what has been dubbed the Migratory bird rule[5] A case that pitted a consortium of towns around Chicago over isolated wetlands, inhabited or visited by over 100 migratory bird species, against the US Army Corps of Engineers. In this case, Skokie, Illinois, wanted abandoned quarries filled with water, but not connected to another or navigable body of water to serve as a site for a solid waste facility. For the previous 15 years, lower courts had sustained the law in favor of migratory birds, siding with the Army Corps.[6]

At least one state reacted to the new Supreme court ruling by restoring isolated wetlands protection: 2001 Wisconsin Act 6, is the first of its kind nationwide to restore wetlands regulation to the state after federal authority had been revoked. It restores protection to over one million acres (4,000 km²) of isolated wetlands in Wisconsin. On May 7, 2001, Wisconsin Governor Scott McCallum signed a bill protecting wetlands by placing Wisconsin wetlands regulation under the jurisdiction of the Wisconsin Department of Natural Resources. Bipartisan state legislators fully supported the bill and felt it was necessary after the Supreme Court ruled that the federal clean water act didn't give the Corps authority over decisions involving isolated wetlands.[7]

Impact on private property owners

Migratory birds may seek respite within trees or on buildings considered private property. The **Migratory Bird Treaty Act of 1918** prohibits the removal of all listed species or their parts (feathers, eggs, nests, etc.) from such property. However, in extreme circumstances, a federal permit might be obtained for the relocation of listed species (in some states a state permit is required *in addition* to a federal permit). Pursuant to the spirit of the treaty, it is not trivial to obtain a permit; the applicant must meet a certain criteria as outlined in Title 50, Code of Federal Regulations, 21.27, Special Purpose Permits.[8]

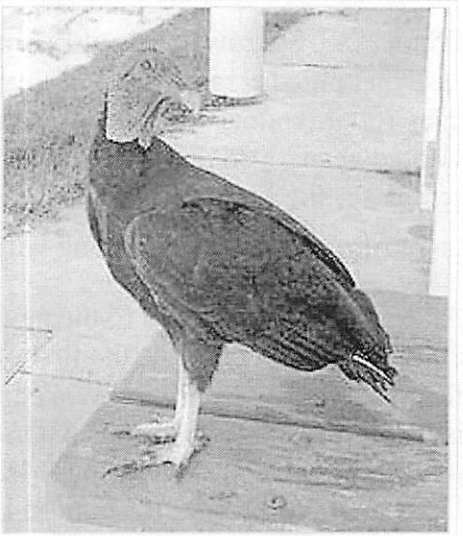
The permit applicant is generally a contractor who specializes in wildlife relocation. When hiring a contractor to trap and relocate any animal from one's property, the private property owner is well advised to attain proof of such permits before any trapping activity begins, as trapping without the necessary paperwork is common in the United States.

Most wildlife management professionals consider relocation actions undue harm to the birds, particularly since relocated birds (being migratory) often return to the same property the next year. In the case of trapping and relocation, *harm* is brought on by or can result in:

- *Breaking*, a term describing increased susceptibility to disease brought on by the stress of capture and relocation
- Difficulty in establishing territory at the new location
- Separation of family members and the stunting of juveniles' natural progression into adulthood

Partial listing of covered species

The following is a sampling of some of the more commonly known birds of the over 800 species covered under the treaty:



American Black Vulture *Coragyps atratus*, one of the species covered under the treaty.

- Bald Eagle, *Haliaeetus leucocephalus*
- Black-capped Chickadee, *Parus atricapillus*
- American Black Vulture, *Coragyps atratus*
- Northern Cardinal, *Cardinalis cardinalis*
- Cedar Waxwing, *Bombycilla cedrorum*
- Cliff Swallow, *Hirundo pyrrhonota*
- Barn Owl, *Tyto alba*
- Barn Swallow, *Hirundo rustica*
- Common Nighthawk, *Chordeiles minor*
- Downy Woodpecker, *Picoides pubescens*
- Gray Catbird, *Dumetella carolinensis*
- Mourning Dove, *Zenaida macroura*
- Northern Mockingbird, *Mimus polyglottos*
- Red-tailed Hawk, *Buteo jamaicensis*
- Red-winged Blackbird, *Agelaius phoeniceus*
- Swamp Sparrow, *Melospiza georgiana*
- Turkey Vulture, *Cathartes aura*
- American Crow, *Corvus brachyrhynchos*
- Common Raven, *Corvus corax*
- Ruby-throated Hummingbird, *Archilochus colubris*
- Canada Goose, *Branta canadensis*
- Mississippi Kite, *Ictinia mississippiensis*

Game birds and hunted species

The migratory bird conventions with Canada and Mexico define "game birds" as those species belonging to the following families:

- Anatidae (swans, geese, and ducks)
- Rallidae (rails, gallinules, and coots)
- Gruidae (cranes)
- Charadriidae (plovers and lapwings)
- Haematopodidae (oystercatchers)
- Recurvirostridae (stilts and avocets)
- Scolopacidae (sandpipers, phalaropes, and allies)
- Columbidae (pigeons and doves).

The Migratory Bird Treaty Act, which implements the conventions, grants the Secretary of the Interior the authority to establish hunting seasons for any of the migratory game bird species listed above. In actuality, the Fish and Wildlife Service has determined that hunting is appropriate only for those species for which there is a long tradition of hunting, and for which hunting is consistent with their population status and their long-term conservation. It is inconceivable, for example, that we will ever see legalized hunting of plovers, curlews, or the many other species of shorebirds whose populations were devastated by market gunners in the last decades of the 19th century.

Although the Migratory Bird Treaty Act considers some 170 species to be "game birds," less than 60 species are typically hunted each year. The Fish and Wildlife Service publishes migratory game bird regulations in the Federal Register. Those species for which hunting regulations have been established at some point during the past 10 years are designated with an asterisk (*) in the following list. However, such a designation does not necessarily indicate that a given species can be taken legally in your State or locality. For regulations specific to your locality, you should consult with your State's natural resource agency. Source: The list of hunted species was taken primarily from Appendix 2 of the Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88), U.S. Fish and Wildlife Service

Controversy

Unlike the Endangered Species Act, the MBTA is relatively unknown to the general public and causes little controversy. To date, there have been no serious attempts to have species stripped from the treaty.

One issue involves a small uninhabited island in the Pacific Ocean known as Farallon de Medinilla located 150 miles (240 km) north of Guam. The target range there is the United States Pacific Fleet's only U.S.-controlled range available, and conveniently accessible from bases in Guam, for live-fire training. In addition, the air and sea space in the Farallon de Medinilla area provides sufficient room for

the many different attack profiles which need to be rehearsed. During the peak of Vietnam War operations, ordnance delivered on the island was estimated at 22 tons per month, but is considerably less now.

The Navy has far more mitigation procedures to prevent environmental damage in the present day than they did in the 1960s. In compliance with the National Environmental Policy Act of 1969 they prepared an Environmental Impact Statement.[9] However, the Navy could not guarantee that no bird protected by the MBTA would be killed, despite the precautions. The Fish and Wildlife Service could not grant a permit without such a guarantee, and no permit has been issued. The Navy argued that it had done its best to comply with environmental laws, and should be permitted to operate under the Impact Statement prepared for NEPA. Vice Speaker Joseph P. DeLeon Guerrero, R-Saipan, noted that the U.S. military "is thorough and meticulous in monitoring the impact of the bombing [drills]" on Farallon de Medinilla.

Earthjustice sued for a temporary restraining order of tests because the navy did not comply with the MBTA, although they did comply with the other environmental laws. As a result a law was introduced by congress (H.R. 4546) to amend the Migratory Bird Treaty Act of 1918 to make it lawful for the Department of Defense to "take" (kill) migratory birds during a "military readiness activity". (Readiness activities are defined as all training activities and military operations related to combat and the testing of equipment for combat use.) The record in congress noted that "A recent federal court ruling indicated that the Navy had violated the Migratory Bird Treaty Act by incidentally taking migratory birds without a permit during training exercises near Guam. The House report indicates that the exemption provision is intended to address the lack of permit authorization for incidental takings, so that essential training exercises may proceed. It appears that the language used in the bill would not authorize the issuance of permits, but more broadly would state that the part of the Migratory Bird Treaty Act that articulates unlawful behavior does not apply to a military readiness activity.[10]

See also

- Agreed Measures for the Conservation of Antarctic Fauna and Flora
- Convention on Biological Diversity
- Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES)
- Endangered Species Act
- Bald and Golden Eagle Protection Act
- Environmental agreement
- Ramsar Convention
- sinkbox
- *Missouri v. Holland*
- Migratory Birds Convention Act, the Canadian law implementing the treaty

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External links

- Migratory Bird Treaty on Cornell's U.S. Code Collection (http://www.law.cornell.edu/uscode/html/uscode16/usc_sup_01_16_10_7_20_II.html)
- List of bird species covered under the Migratory Bird Treaty (https://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/MBTANDX.HTML)
- U.S. Fish and Wildlife Service's guide to U.S. laws protecting migratory birds (including the Migratory Bird Treaty) (https://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtintro.html)

Categories: 1918 in law | Bird conservation | United States federal environmental legislation | 1918 in the United States | 1918 in international relations | 1918 in the environment | International environmental law | Environmental law in Canada | Bird hunting

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Fish and Wildlife Coordination Act

From Wikipedia, the free encyclopedia

The **Fish and Wildlife Coordination Act** (FWCA) of the United States was enacted March 10, 1934 to protect fish and wildlife when federal actions result in the control or modification of a natural stream or body of water. The Act provides the basic authority for the involvement of the United States Fish and Wildlife Service (Service) in evaluating impacts to fish and wildlife from proposed water resource development projects.

Contents

Description of Intent

FWCA Authorizes the Secretaries of Agriculture and Commerce to provide assistance to Federal and State agencies in order to protect and increase the supply of wildlife and wildlife resources, as well as to study the effects of domestic sewage, trade wastes, and other pollution on wildlife.

The Act's purposes are to recognize the vital contribution of U.S. wildlife resources, and their increasing public interest and significance. FWCA requires that wildlife conservation be given equal consideration to other features of water-resource development programs through planning, development, maintenance and coordination of wildlife conservation and rehabilitation. Wildlife and wildlife resources are defined by the Act to include: birds, fish, mammals and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent.

The Secretary of the Interior (Secretary) is authorized to provide assistance to, and cooperate with, federal, state, and public or private agencies and organizations in:

• developing, protecting, rearing and stocking all species of wildlife, resources thereof, and their habitat; • controlling losses from disease or other causes; • minimizing damages from overabundant species; • providing public shooting and fishing areas, including easements across public lands; and • carrying out other necessary measures.

Additionally, the Secretary is authorized to make surveys and investigations of the wildlife of the public domain, including lands and waters or interest acquired or controlled by an agency of the U.S., and to accept donations of land and contributions of funds in furtherance of the purposes of this Act. Several provisions incorporate the Secretary's authorities relating to migratory birds and state agency authorities concerning fish and wildlife resources. Coordination generally culminates in a report to the requesting agency detailing the results of habitat surveys and other data collection efforts, including recommendations for the project moving forward. The results and recommendations are included in reports to Congress, authorization requests and other project planning documents.

Summary of Requirements

To ensure fish and wildlife resources receive equal consideration to other features of water resource development projects, the FWCA requires Federal agencies involved with such projects to first consult with the U.S. Fish & Wildlife Service and the respective state fish and wildlife agencies regarding the potential impacts of the project on fish and wildlife resources. The results of the consultation are not binding, but the Federal agency must strongly consider input received during consultation to prevent loss or damage to wildlife resources and provide for any measures taken to mitigate such impacts.

Whenever the waters or channel of a body of water are modified by a Federal agency, or by any other entity where a Federal permit is required, adequate consideration must be made for the conservation, maintenance and management of wildlife resources and habitat. The use of the waters, land or interests for wildlife conservation must be in accordance with plans approved jointly by: the head of the department or agency exercising primary administration; the Secretary; the head of the state agency exercising administration of the wildlife resources.

The Secretary, through the Fish and Wildlife Service and the U. S. Bureau of Mines, is further authorized to make investigations to determine the effects of domestic sewage, mine, petroleum, and industrial wastes, erosion silt, and other polluting substances on wildlife, and to make reports and recommendations to Congress.

As a collaborative effort, Federal agencies, the Service and state fish and wildlife agencies must develop measures to protect, develop, and improve wildlife and their habitat. Reports or decision-making documents subsequently prepared by the requesting Federal agency must include the recommendations of the Service and the affected state(s) for protecting fish and wildlife. Where possible, the agency must incorporate these recommendations in the project plans. The constructing, licensing, or permitting federal agency is to include in the project plans such justifiable means and measures as it finds should be adopted to obtain maximum overall project benefits.

In order to comply with the requirements laid out in the Act, Federal agencies must first determine whether a proposed activity will result in the control or modification of a body of water. Typical actions that would fall under the jurisdiction of the Act include:

• discharges of pollutants, including industrial, mining, and municipal wastes or dredged and fill material into a body of water or wetlands; and • projects involving construction of dams, levees, impoundments, stream relocation, and water-diversion structures.

Penalties

Violation of a rule or regulation promulgated in accordance with FWCA is a misdemeanor punishable by a fine, imprisonment for up to one year, or both. (The Sentencing Reform Act of 1984, as amended in 1987, increases allowable fines from the $500 stated in this Act to $100,000 for individuals and $200,000 for organizations. See the summary of the Sentencing Reform Act.)

Amendments

FWCA was amended in 1946 to require consultation with the Service and the fish and wildlife agencies of States where any body of water is controlled or modified by any Federal agency, in order to prevent loss and damage of wildlife resources. The amendments specifically exempted the Tennessee Valley Authority from its provisions.

The 1958 amendments added provisions to require equal consideration and coordination of wildlife conservation with other water resources development programs, and authorized the Secretary of Interior to provide public fishing areas and accept donations of lands and funds. These amendments also modified the Watershed Protection and Flood Prevention Act.

Impacts

The FWCA is one of the oldest federal environmental review statutes; it has had a substantial impact on the planning and development of certain types of federal projects, particularly U.S. Army Corps of Engineers dam projects and other major federal construction activities directly affecting navigable waters. The effect of the Act on other types of federal activities has varied significantly. As of the late 1970s, this was due to a number of factors including: 1) lack of resources in the Fish and Wildlife Service, 2) legal questions on the applicability of the Act to certain types of federal activities, 3) recalcitrance on the part of certain federal agencies to comply with the law, and 4) the passage of the National Environmental Policy Act which had, in part, overshadowed FWCA.[1]

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US Fish and Wildlife Service: Habitat and Resource Conservation (http://www.fws.gov/habitatconservation/fwca.html) US Fish and Wildlife Service: Legislation (http://www.fws.gov/laws/lawsdigest/fwcoord.html)

External links

- Fish and Wildlife Coordination Act (http://www.fws.gov/laws/lawsdigest/fwcoord.html)

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